

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

COLOR ME HOUSE INC.,

Plaintiff,

v.

DISCOVERY COMMUNICATIONS,
INC,

Defendant.

CASE NO. C12-5935 RJB

ORDER ON PENDING MOTIONS

This matter comes before the court on review of the file.

PENDING MOTIONS

There are several pending motions and pleadings that warrant preliminary review and scheduling:

1. Color Me House's Motion for Order of Contempt (Dkt. 37). This motion was noted for consideration on May 17, 2003. Color Me House requests that the court find Discovery in contempt for violating the court's March 27, 2013 preliminary injunction.

1 **2. Defendant's Motion for Leave to File Surreply and Supporting Evidence (Dkt.**

2 **47).** This motion was filed on May 16, 2013, and was noted for consideration on the same day.
 3 Discovery requests leave to file a surreply to address certain factual allegations in Color Me
 4 House's reply brief in support of its motion for contempt, and to provide evidence in support of
 5 Discovery's opposition to plaintiff's motion for contempt.

6 **3. Defendant's Motion for Leave to Supplement Surreply and Supporting Evidence**

7 **(Dkt. 49).** This motion was filed on May 17, 2013, and was noted for consideration on the same
 8 day. Discovery request that it be permitted to provide the court with evidence showing
 9 Discovery's efforts to comply with the court's injunction order. Discovery requests additional
 10 time, until May 23, 2013, "to pursue every avenue to satisfy Plaintiff's concerns and comply
 11 with the Court Order." Dkt. 49, at 2.

12 **4. Color Me House's Motion to Strike Discovery's Improper Additional Filings**

13 **(Dkt. 50).** This motion was filed on May 20, 2013, and seeks to strike Discovery's motions
 14 (Dkt. 47 and 49) because these motions were not properly noted and not authorized by the local
 15 rules, and because they actually support Color Me House's motion for contempt (Dkt. 37).

16 DISCUSSION

17 Discovery requests additional time to show that it is complying with the court's
 18 injunction. Discovery's motions (Dkt. 47 and Dkt. 49) are not technically replies to Color Me
 19 House's motion for contempt; they are an attempt to introduce evidence that Discovery is
 20 attempting to comply with the court's injunction. The relief requested by Color Me House in
 21 requesting the injunction, and granted by the court in its injunction, is to prevent Discovery from
 22 allegedly ongoing trademark infringement. In the interest of fairness to all parties, the court (1)
 23 **DENIES** Color Me House's Motion to Strike Discovery's Improper Additional Filings (Dkt.

1 50); **GRANTS** Defendant's Motion for Leave to File Surreply and Supporting Evidence (Dkt.
2 47); and **GRANTS** Defendant's Motion for Leave to Supplement Defendant's Motion for Leave
3 to File Surreply and Supporting Evidence (Dkt. 49). Color Me House should be afforded
4 additional time to file a reply, and supporting evidence, to address issues and evidence raised in
5 Dkt. 47, Dkt. 49, and any subsequent pleading and evidence filed by Discovery, pursuant to the
6 following schedule:

7 Not later than May 23, 2013, Discovery may file an additional pleading and supporting
8 evidence in response to Color Me House's Motion an Order of Contempt (Dkt. 37). Not later
9 than May 31, 2013, Color Me House may file a pleading and supporting evidence, addressing
10 issues and evidence raised in Dkt. 47, Dkt. 49, and any subsequent pleading filed by Discovery.
11 Color Me House's Motion for an Order of Contempt (Dkt. 37) is **RENOTED** for consideration
12 on May 31, 2013.

13 The parties have requested oral argument on Color Me House's Motion for an Order of
14 Contempt (Dkt. 37). That request is **GRANTED**. The Clerk will schedule the oral argument,
15 and will notify the parties of the date and time. Not later than May 31, 2013, the parties are
16 directed to inform the court whether they request an evidentiary hearing in connection with that
17 oral argument, and the nature of any evidence/testimony.

18 The court is familiar with the record and with the issues involved in this dispute. The
19 parties may wish to consider whether to engage a neutral party with expertise in the commercial
20 transactions at issue in this case to assist the parties in resolving the issues involved with
21 complying with the court's injunction and/or to facilitate resolution of the case. The parties may
22 request that the court reschedule the pending motion for contempt, if they need additional time
23 related to resolution of that motion.

1 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
2 to any party appearing *pro se* at said party's last known address.

3 Dated this 21st day of May, 2013.

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6 ROBERT J. BRYAN
7 United States District Judge
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